

**Summary of IDEM Workgroup Meeting  
ANTIDEGRADATION/OSRW**

Friday, June 20, 2003

IDEM, 2525 N. Shadeland Ave, Conference Room C, Indianapolis  
9:00a.m. – 2:00p.m. E.S.T.

**Introduction:**

On Friday, June 20, 2003, IDEM staff met for the ninth time with a wide cross-section of stakeholders which make up the Antidegradation/OSRW workgroup. These notes are intended to be a summary of the major points from the meeting held at IDEM's Shadeland offices.

The meeting was called to order by Larry Wu. Those in attendance for all or part of the meeting included: Art Umble, Bill Beranek, Bowden Quinn, Dan Olson, Dave Pfeifer, and Ralph Roper.

In addition, the following IDEM staff members were present for all or part of the meeting: Bobbi Steiff, Dave Kallander, Dennis Clark, John Nixon, and Megan Wallace.

**Summary:**

The workgroup discussed the following:

1. The minutes from the May 19, 2003 meeting were approved. Ralph Roper asked to have clarified in the minutes that when the workgroup mentions Tier II, it refers to Tier II *parameters* and not Tier II *waterbodies*. It was decided that the minutes from May 19, 2003 would remain unchanged, but that Ralph's comment would be included in these minutes. Ralph's clarification of Tier II parameters will also be included in the materials for the public meetings. The minutes will be posted to the Triennial website.
2. Comment Letters
  - A. Bill Beranek thinks there are two ways IDEM can respond to the comments received from the First Comment Period. The first way is to say that basically we received your comments and we understand your comments. The second way is to say we disagree. He thinks disagreeing is not a good idea because this is only first notice and we may not be far enough along to respond at this time.
  - B. Larry Wu says that in regards to our heightened public participation, IDEM should comment more thoroughly. "IDEM disagrees" will not be an acceptable response anymore.
  - C. Denny Clark says that most of the comments are suggestions. IDEM can say that they will be working on those issues throughout the process.

3. The workgroup discussed the challenges posed by HEA 1671 regarding the fiscal impact analysis. The fiscal impact analysis now has to be turned into the Legislative Services Agency (LSA) sixty-six (66) days before preliminary adoption. A concern was raised that turning in the fiscal impact analysis this early could force IDEM to “lock in” the content of the draft rule language, at least to a greater extent than in the past. Another concern was raised about having to do a revised fiscal impact analysis if the content of the rule does change after preliminary adoption. Larry Wu pointed out that on the recent storm water Rules 5 & 6, a change in the rule reduced the fiscal impact from the published LSA analysis. Perhaps where the impact is reduced, there may not be a need to revise the analysis.
4. Discussion on Tiers
  - A. Ralph Roper clarifies that when we discuss Tier II, we are referring to Tier II *parameters*, not Tier II *waterbody*.
  - B. Denny Clark explains that high quality waters such as, Outstanding National Resource Waters (ONRWs) and Outstanding State Resource Waters (OSRWs) are a certain category of water, but that other water bodies that might be referred to as Tier II, meaning Tier II parameters.
  - C. From looking at the 1999 draft, Tier I is referring to waters that meet water quality standards, Tier II is referring to high quality waters, Tier 2.5 is referring to outstanding historical state resource waters (which the group agreed to eliminate this category), Tier 2.9 is referring to OSRWs, and Tier 3 is referring to ONRWs.
  - D. After discussion by the group on what each Tier refers to and which waters each Tier covers, Denny Clark draws a simple diagram that puts everything into perspective for the group. The diagram consists of one large circle that represents Tier I and Tier II. These standards apply to all surface waters. Within the large circle are two smaller circles. These represent OSRWs and ONRWs. These categories have higher standards in addition to the Tier I and Tier II standards that already apply to all waters.
  - E. The group discusses doing away with the numbered tiers and just calling each tier what it means. Denny Clark wants to keep Tier I and Tier II, but doesn't mind changing Tier 2.9 and Tier 3 to OSRWs and ONRWs respectively. Dave Pfeifer commented that we could call them anything we wanted (e.g., red, blue or gold). Ralph Roper added that if we stick with the current nomenclature, we will perpetuate the confusion. No final decision is made. It will be discussed further.
  - F. Addition of a category for Urban Streams
    1. Ralph Roper suggests adding a category for Urban Streams that would include CSO communities. The current system is a roadblock to progress in CSO communities.
    2. Denny Clark says that he doesn't think that is feasible. A category can't just be created. That type of proposal would have to go through a Use Attainability Analysis. If it were justified, new criteria would be set. For antidegradation, we are not lowering water quality criteria at all; therefore, we don't have to go through that process.
    3. Bowden Quinn says that CSO communities are being covered in other rulemakings.

5. Public Participation
  - A. The group discusses 327 IAC 2-1.3-10 (from the condensed version of the 1999 draft) Public participation in certain water quality decisions.
  - B. Denny Clark says that anytime an application for an antidegradation review is turned in, a public notice is made before a draft permit is produced.
  - C. Bill Beranek asks if this section allows for a public hearing and an appeal process. The 1999 draft does not mention anything about an appeal, but does mention holding a public meeting. Bill says that people won't know what an antidegradation review is anyway. John Nixon replied that nothing in the section by itself leads to an appeal. It's just information gathering.
  - D. John Nixon says that one possibility of outreach to people is having one big mailing list. If people want on the list, they will receive everything from IDEM. John says this issue is bigger than this group.
  - E. Larry Wu thinks this will be a good topic to be brought up at the steering committee.
  - F. It is decided that this topic will be brought up at the steering committee meeting to be held on June 25, 2003.
6. Definitions
  - A. During other discussions during the workgroup meeting, the following questions were raised about definitions:
    1. Art Umble asked if a definition for "affected area" would be included.
    2. Bill Beranek suggested we use exactly the language from 40 CFR §122.2 for best management practices.
    3. Dan Olsen asked if we would distinguish between Tier I "criteria" and Tier II "values". (Later, Dan was concerned about a Tier II value for a permit limit becoming a more restrictive Tier I criterion. He suggested that permit holders would want their permit opened up again. Denny Clark said that would be handled by antibacksliding.)Larry Wu responded by saying those issues were on the agenda and we could turn to a discussion on definitions.
  - B. The group started going through the definition section from the condensed version of the 1999 draft. The concern of coordinating the definitions for all four rulemaking regarding Triennial Review was raised. Many of the definitions the workgroup was discussing seemed too broad for antidegradation, yet could apply to the other rulemakings as well.
  - C. John Nixon thinks it will be better to have the definitions for all four rulemakings in one section. If certain definitions are specific to antidegradation, we could have a separate smaller section of definitions for antidegradation.
  - D. The group decides to move from definitions to another topic, agreeing that this issue will definitely need to be coordinated with all four rulemakings.
7. Dave Pfeifer suggested that we not use the terms "exemptions" or "exceptions", rather we could refer to certain activities as not triggering antidegradation requirements.

8. “exemptions” be considered for: a range of acceptable variability (things that don’t lower water quality and where we don’t worry about short-term changes) and de minimis.
9. Dan Olsen, in referring to the comment letter from the City of Brownsburg, suggested that an antidegradation demonstration should be easier when the benefits of increasing the size of a water treatment plant are so obvious. He noted it will be critical to streamline the process.
10. Bill Beranek asks how we get a Bioconcentrating Chemical of Concern (outside the basin), Bioaccumulating Chemical of Concern (inside the basin) (BCC) on the list? It is suggested to look at EPA’s Great Lakes Initiative (GLI) guidance and apply it to everything.
11. Larry asks for a volunteer to report to the steering committee on the workgroup’s progress. It is decided that Bowden Quinn will do the report again if he can attend the meeting and Bill Beranek will be his back up.
12. The next meeting is scheduled for Monday, July 21, 2003 from 9:00a.m. to 2:00p.m. E.S.T. The meeting will be held at 2525 N. Shadeland Ave., Conference Room C.